APPROVED **[2023] IEHC 271**

THE HIGH COURT

2022 No. 737 J.R.

IN THE MATTER OF SECTION 5 OF THE ILLEGAL IMMIGRANTS (TRAFFICKING) ACT 2000

IN THE MATTER OF THE INTERNATIONAL PROTECTION ACT 2015

BETWEEN

T. (RUSSIAN FEDERATION)

APPLICANT

AND

INTERNATIONAL PROTECTION APPEALS TRIBUNAL
MINISTER FOR JUSTICE

RESPONDENTS

JUDGMENT of Mr. Justice Garrett Simons delivered on 25 May 2023

INTRODUCTION

1. This judgment is delivered in respect of a challenge to a decision to refuse the Applicant international protection. The decision was to the effect that the

Applicant is *excluded* from the benefit of international protection on the grounds that he committed a "*serious non-political crime*" outside the State prior to his arrival in the State.

2. It is a fundamental feature of asylum law that a person who has committed a "*serious non-political crime*" is deemed to be undeserving of the protection which refugee status entails. Such an exclusion is intended to ensure the integrity of the asylum process, and to ensure that those who have committed such crimes cannot avail of refugee status in order to escape criminal liability. This principle is captured pithily in the phrase that an asylum seeker must have a well-founded fear of persecution not prosecution. However, this phrase tends to oversimplify matters: it must be borne in mind that, in some instances, criminal prosecution can be used as a measure of persecution.

LEGISLATIVE FRAMEWORK

3. The asylum process is governed by the recast Qualification Directive, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011. The recast Qualification Directive has been transposed into domestic law by, *inter alia*, the International Protection Act 2015. The legislative concepts of relevance to the present proceedings are as follows.

4. Section 7 of the International Protection Act 2015 provides that "*acts of persecution*" must be—

   (a) sufficiently serious by their nature or repetition to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European

Convention for the Protection of Human Rights and Fundamental Freedoms, or

(b) an accumulation of various measures, including violations of human rights, which is sufficiently severe as to affect an individual in a similar manner as mentioned in paragraph (a).

5. It is expressly provided that prosecution or punishment that is disproportionate or discriminatory may amount to an act of persecution, as may the denial of judicial redress resulting in a disproportionate or discriminatory punishment.

6. A group shall be considered to form a "*particular social group*" where in particular—

(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, or

(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society,

and, depending on the circumstances in the country of origin, a particular social group may include a group based on a common characteristic of sexual orientation.

7. A "*serious non-political crime*" is defined under Section 2 of the International Protection Act 2015 as including particularly cruel actions, even if committed with an allegedly political objective.

8. Section 10 of the International Protection Act 2015 provides that a person is excluded from being a refugee where there are "*serious reasons*" for considering that he or she—

(a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,

(b) has committed a serious non-political crime outside the State prior to his or her arrival in the State, or

(c) has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

9. The exclusion also applies where there are "*serious reasons*" for considering that a person has "*incited*" or otherwise "*participated*" in the commission of such a crime or an act.

10. The United Kingdom Supreme Court has provided the following useful guidance on what is meant by the concept of "*serious reasons for considering*". See *Al-Sirri v. Secretary of State for the Home Department* [2012] UKSC 54, [2013] 1 A.C. 745 (at paragraph 75):

> "We are, it is clear, attempting to discern the autonomous meaning of the words "serious reasons for considering". We do so in the light of the UNHCR view, with which we agree, that the exclusion clauses in the Refugee Convention must be restrictively interpreted and cautiously applied. This leads us to draw the following conclusions: (1) "Serious reasons" is stronger than "reasonable grounds". (2) The evidence from which those reasons are derived must be "clear and credible" or "strong". (3) "Considering" is stronger than "suspecting". In our view it is also stronger than "believing". It requires the considered judgment of the decision-maker. (4) The decision-maker need not be satisfied beyond reasonable doubt or to the standard required in criminal law. (5) It is unnecessary to import our domestic standards of proof into the question. The circumstances of refugee claims, and the nature of the evidence available, are so variable. However, if the decision-maker is satisfied that it is more likely than not that the applicant has not committed the crimes in question or has not been guilty of acts contrary to the purposes and principles of the United Nations, it is

> difficult to see how there could be serious reasons for considering that he had done so. The reality is that there are unlikely to be sufficiently serious reasons for considering the applicant to be guilty unless the decision-maker can be satisfied on the balance of probabilities that he is. But the task of the decision-maker is to apply the words of the Convention (and the Directive) in the particular case."

PROCEDURAL HISTORY

11. The Applicant is an adult male from the Caucasus region and is Muslim. The Applicant travelled to Ireland on [date redacted] and made an application for international protection on [date redacted]. These dates appear to be misstated in IPAT's determination.

12. The Applicant alleges that he is being targeted by the Federal Security Service ("*FSB*") of the Russian Federation and that the FSB have made false accusations of terrorism against him because of his failure to co-operate with them [details redacted]. In particular, the Applicant alleges that he has been falsely accused of travelling to Syria and being a member of the terrorist group known as "*Imrat Kavkaz*" or "*Imrat Caucasus*". The Applicant further alleges that if he were returned to the Russian Federation, he would be sent to prison for a long time and that the FSB would engineer his death and report it as a suicide or heart attack.

13. The Applicant has submitted a number of documents in support of these allegations. To avoid inadvertently disclosing information which might allow the identity of the Applicant to be deduced, these documents will be described in this judgment in general terms only. For example, dates have been deliberately omitted. The documents are on the court file and have been carefully considered in preparing this judgment. The parties are aware of the

detail of the documents and can read this judgment in conjunction with the documents as necessary.

14. It is important to emphasise that the Applicant relies on these documents as evidence that the Russian authorities are pursuing criminal proceedings against him. The Applicant insists that the allegations of criminality contained within these documents are fabricated. Put otherwise, the Applicant contends that while the documents are genuine, in the sense that they consist of search warrants and other documents generated in the course of a criminal procedure, the *content* of the documents is false. (This distinction appears to have been lost on IPAT when it came to applying the criteria for exclusion).

15. IPAT made a finding that the Applicant has a well-founded fear of persecution within the meaning of the International Protection Act 2015 on the grounds of religion, imputed political opinion and membership of a particular social group. IPAT characterises the social group as comprising persons suspected of membership of an Islamic terrorist organisation, Imarat Caucasus, and states that suspected Islamic terrorists in the Russian Federation are at risk of torture, imprisonment, and murder by the authorities. IPAT concluded that there is a reasonable chance that if the Applicant were to be returned to Russia he would face a well-founded fear of persecution.

16. Having concluded that the Applicant meets the criteria for international protection, IPAT then purported to find that there were "*serious reasons*" to consider that the Applicant has committed a "*serious non-political crime*" prior to his arrival in the State. IPAT purported to find, in the alternative, that the Applicant had incited or otherwise participated in such a crime.

17. In effect, IPAT purported to find that the allegations of criminality made against the Applicant by the Russian Federation, which the Applicant asserts are fabricated, were justified and that the Applicant should be treated as an actual rather than as a suspected terrorist.

DISCUSSION OF VALIDITY OF IPAT'S DECISION

18. The leading judgment on the interpretation of the exclusion under the Qualification Directive is that of the Court of Justice of the European Union in Joined Cases C-57/09 and C-101/09, *Bundesrepublik Deutschland v. B and D*, EU:C:2010:661. This judgment was delivered in respect of the previous version of the Qualification Directive, i.e. Directive 2004/83/EC. The parties are agreed, however, that the same principles apply to an exclusion under the recast Qualification Directive, i.e. Directive 2011/95/EU.

19. The CJEU held that, before a finding can be made that the grounds for exclusion laid down in Article 12(2)(b) or (c) of Directive 2004/83/EC apply, it is necessary to carry out an individual assessment of the specific facts.

20. The CJEU stated the position as follows (at paragraphs 86 to 87):

> "On that point, it should be noted that points (b) and (c) of Article 12(2) of Directive 2004/83 – in the same way, moreover, as points (b) and (c) of Article 1F of the 1951 Geneva Convention – permit the exclusion of a person from refugee status only where there are 'serious reasons' for considering that 'he … has committed' a serious non-political crime outside the country of refuge prior to his admission as a refugee or that 'he … has been guilty' of acts contrary to the purposes and principles of the United Nations.
>
> It is clear from the wording of those provisions of Directive 2004/83 that the competent authority of the Member State concerned cannot apply them until it has undertaken, for each individual case, an assessment of the specific facts within its knowledge, with a view to determining whether

> there are serious reasons for considering that the acts committed by the person in question, who otherwise satisfies the conditions for refugee status, are covered by one of those exclusion clauses."

21. The fact that a person has been a member of a (proscribed) terrorist organisation and has actively supported the armed struggle waged by that organisation does not automatically constitute a "*serious reason*" for considering that that person has committed a "*serious non-political crime*". Rather, the finding, in such a context, that there are serious reasons for considering that a person has committed such a crime or has been guilty of such acts is conditional on an assessment, on a case-by-case basis of the specific facts, with a view to determining (i) whether the acts committed by the organisation concerned meet the conditions laid down, and (ii) whether individual responsibility for carrying out those acts can be attributed to the person concerned.

22. It must be possible to attribute to the person concerned—regard being had to the standard of proof required under Article 12(2)—a share of the responsibility for the acts committed by the organisation in question while that person was a member. To that end, the competent authority must, *inter alia*, assess the true role played by the person concerned in the perpetration of the acts in question; his position within the organisation; the extent of the knowledge he had, or was deemed to have, of its activities; any pressure to which he was exposed; or other factors likely to have influenced his conduct.

23. Any competent authority which finds, in the course of that assessment, that the person concerned has occupied a prominent position within an organisation which uses terrorist methods is entitled to presume that that person has individual responsibility for acts committed by that organisation during the relevant period,

but it nevertheless remains necessary to examine all the relevant circumstances before a decision excluding that person from refugee status can be adopted.

24. The rationale for this approach has been explained as follows by the High Court (Cooke J.) in *B (A) (Afghanistan) v. Refugee Appeals Tribunal* [2011] IEHC 412 (at paragraph 13):

> "The rationale of the approach to the exclusion clause adopted by the Court of Justice is obvious. A finding that the exclusion applies to an individual is a finding that the individual was at least complicit in atrocities of the most serious kind which attract universal condemnation. A finding to that effect should only therefore be made where there are genuinely serious reasons based upon specific evidence for considering that the individual in question bears a degree of responsibility for the acts alleged and ought not therefore to be entitled to evade accountability for them as a refugee. Known terrorist organisations may be splintered into a variety of factions each pursuing different means of achieving one or more common aims. Thus, mere membership of an organisation does not create a presumption that a particular individual can be fixed with the necessary degree of involvement and responsibility which will exclude him from refugee status without an examination of the nature, extent, duration and level of responsibility of his involvement."

25. The High Court went on to emphasise that a finding that the exclusion applies is a finding of immense importance to any individual and one capable of causing severe prejudice unless made soundly in accordance with the requirements of law and particularly on the basis of an individualised assessment by reference to one or more of the classes of crime or act which the article covers.

26. For the reasons which follow, I have concluded that IPAT failed to carry out the requisite individualised assessment in respect of the Applicant and that its decision is, accordingly, invalid.

27. IPAT failed to identify adequately the nature of the crime or crimes which it is considered that the Applicant has committed. This is a fundamental error of law.

It is simply not possible for a competent authority to carry out the requisite case-by-case assessment without first identifying the nature of the crime. Without such identification, there can be no meaningful analysis of whether the crime is "*serious*" or "*non-political*", nor of whether the person bears individual responsibility for same. Indeed, in some cases there may be a dispute as to whether the conduct complained of would represent a "*crime*" at all under EU law.

28. For the exclusion to apply, the competent authority must be able to identify the nature of the crime, including the broad circumstances in which it is said to have been committed. Here, IPAT fails to make a finding which identifies any specific crime supposedly committed by the Applicant. The decision merely repeats, instead, the generic statutory formula a "*serious non-political crime*".

> "The Tribunal finds that there are serious reasons to consider that the Appellant has committed a serious non-political crime outside the state prior to his arrival in the state and/or has incited or otherwise participated in the commission of such a crime or act pursuant to Section 10(2)(b) and Section 10(3) of the Act. The Tribunal bases this conclusion on the following clear and reliable information."

29. The decision then refers to a number of documents generated by the Russian authorities. With respect, it is not sufficient that the decision merely makes reference to extraneous documents which appear to make allegations of criminality against the Applicant. It is a matter for IPAT, at first instance, to explain why it had determined that there are "*serious reasons*" for considering that a "*serious non-political crime*" has been committed. This necessitates identification of the nature of the crime. Whereas it may be appropriate to refer to extraneous documents in support of its decision, this does not obviate the necessity for IPAT itself to identify the nature of the crime in its decision.

30. As it happens, even if it were permissible to rely on the extraneous documents in substitution for IPAT naming the crime itself, the documents referenced in IPAT's decision do not adequately identify the nature of the crime. (To protect the anonymity of the Applicant, the dates and issuing body of each document have been redacted for the purpose of this judgment. These details are well known to the parties and do not need to be set out in this judgment).

31. The first document referred to in IPAT's decision consists of a list of organisations and individuals in respect of whom there is said to be "*information*" about their involvement in extremist activities or terrorism. The document cites legislation in respect of the laundering of proceeds of crime from financing terrorism. There is no detail provided as to the ingredients of any alleged offence, still less any detail as to the circumstances in which it is alleged that the Applicant has committed any such offence. It is not possible to know from the document, for example, when or where any such offence is said to have been committed nor the name of the specific terrorist organisation for whose benefit any money laundering is allegedly being carried out.

32. The second document referred to in IPAT's decision consists of material in respect of the issuance of a search warrant. The content of the document is directed principally to whether there was cause to search the particular premises. The document states that the Applicant is "*involved*" in an international terrorist organisation, Imarat Caucasus. There is also reference to what appears to be a provision of the Russian criminal code, but there is nothing to indicate the ingredients of any alleged offence.

33. The third document referred to in IPAT's decision consists of a resolution to initiate a criminal case against the Applicant ("*the resolution*"). The resolution

cites a provision of the criminal code but there is nothing on the face of the document—nor in IPAT's decision—which explains the nature of the alleged offence. It is unclear from the resolution whether the offence is limited to membership of a terrorist organisation which is prohibited on the territory of the Russian Federation, or whether it is further alleged that the Applicant has a specific role in the organisation.

34. At the hearing before me, counsel on behalf of IPAT submitted that the reference in the resolution to the Applicant being *"in the structure of*" the terrorist organisation might be understood as indicating that he enjoys a particular rank or level of seniority, i.e. the term "*structure*" might be understood as referring to the hierarchy of the terrorist organisation. However, it would appear from an earlier part of the resolution that the term "*structure*" is intended to describe the structural subdivisions of the terrorist organisation on a territorial basis. It would seem to follow, therefore, that the resolution is merely alleging that the Applicant is a member of the structural unit which operates in Syria, rather than attributing any level of seniority to him.

35. The very most that can be said of the Applicant is that he is a person in respect of whom the authorities of the Russian Federation have resolved to initiate a criminal case alleging membership of a terrorist organisation. As discussed earlier, the CJEU has held that the fact that a person has been a member of and has actively supported the armed struggle waged by a particular organisation does not automatically constitute a "*serious reason*" for considering that that person has committed a "*serious non-political crime*". IPAT has failed entirely to carry out the individualised assessment mandated in such cases. There is no assessment in IPAT's decision of the nature of the activities carried out by Imarat

Caucasus, still less is there any consideration of whether individual responsibility for the carrying out of any of its activities can be attributed to the Applicant.

36. This failure, in and of itself, operates to invalidate IPAT's decision. For completeness, however, and having regard to the public interest in ensuring that the exceptional provision to exclude persons from international protection is properly applied, it is appropriate to address the following additional aspects of the impugned decision.

37. The approach which IPAT took to documents emanating from the authorities of the Russian Federation was unsatisfactory and contradictory. At its most basic, IPAT failed to advert to the differing status of the documents by reference to the stage of the criminal process at which they were created. It will be recalled that IPAT relied, without distinction, on the contents of a search warrant and on the contents of a resolution to initiate criminal proceedings. The evidential threshold to be met on an application for a search warrant is much lower than that at a criminal trial. The party seeking a search warrant is typically only required to demonstrate that there are reasonable grounds for believing that material relevant to the investigation of a criminal offence may be found at the particular premises. Similarly, the evidential threshold to be met on an application to initiate criminal proceedings falls short of that required for a finding of criminal liability. The resolution to initiate a criminal case against the Applicant appears to have been grounded on there being "*signs of crime*". This may mean nothing more than that the investigation to date demonstrated the *indicia* of a crime rather than some higher threshold.

38. The importance of distinguishing between various stages of a criminal procedure has been emphasised by the European Asylum Support Office (EASO) in its *Practical Guide on Exclusion for Serious (Non-Political) Crimes* (December 2021) as follows (at page 32):

> "It must be noted that the evaluation of certain factual situations or types of evidence, including their admissibility, may change during the distinct phases of the criminal procedure. They involve assessments done by different actors (law enforcement, public prosecutors, investigative judges, court panels) at different moments that can result in previous decisions being changed. For instance, a certain fact considered established in the decision to prosecute may be found by the judge to be insufficiently proven in the pre-trial procedure, or a witness testimony that was initially admitted in the criminal file in the investigation phase is later refuted based on an expert opinion.
>
> The information from the criminal file, where available to the case officer, should be examined with caution and assessed in light of the evidence from the asylum file."

39. IPAT failed to consider the status of the various documents, i.e. the list of individuals, the search warrant, and the resolution initiating a criminal case; generated in respect of the Applicant by the Russian authorities. Instead, IPAT mistakenly treated these documents as "*clear and reliable information*" on the issue of criminal liability.

40. More fundamentally, IPAT failed to address adequately the question of whether it was appropriate to rely on documents emanating from the authorities of the Russian Federation. The Applicant had contended that the authorities had fabricated a criminal case against him. Moreover, the Country of Origin Information ("*COI*") confirmed that there is well founded concern that the Russian authorities fabricate criminal charges against political opponents. For example, the US State Department Report for Russia (2021) recites that there are credible reports that authorities detained and prosecuted individuals for political

reasons. The report continues to say that charges usually applied in politically motivated cases included "*terrorism*", "*extremism*", "*separatism*", and "*espionage*".

41. IPAT itself had been satisfied that the Applicant had a well-founded fear of persecution on the grounds, *inter alia*, that persons suspected of terrorism in the Russian Federation are at risk of torture, imprisonment and murder by the authorities. Notwithstanding this conclusion, IPAT appears to have been unwilling to contemplate that there is a risk that the same authorities might take the *lesser step* of fabricating charges or falsifying evidence. With respect, IPAT's contradictory approach in this regard is irrational. The finding of a well-founded fear of persecution based on the misconduct of the Russian authorities cannot be reconciled with the subsequent finding that there are grounds for exclusion. Put shortly, IPAT failed to consider whether the pursuit of criminal proceedings might itself be an instance of discriminatory persecution.

42. The need to consider such a possibility is explained as follows by EASO in its *Practical Guide on Exclusion for Serious (Non-Political) Crimes* (December 2021) (at page 35):

> "If the criminal proceedings are ongoing or a criminal judgment (either conviction or acquittal) was issued by a court in the country of origin during the examination of the application, the case officer should carefully assess the procedural steps and measures carried out within the criminal proceedings and the relation between them and the merits of the application for international protection or the grounds for which the person was granted international protection (in case a withdrawal procedure was initiated).
>
> It may be that the criminal procedure or the judgment that was passed is in fact an act of persecution if motivated by race, religion, nationality, political opinion or membership to a particular social group (as a result of legal, administrative, police, and/or judicial measures which were in themselves discriminatory or which were implemented in a

> discriminatory manner or following prosecution or punishment which was disproportionate or discriminatory or due to denial of judicial redress resulting in a disproportionate or discriminatory punishment).
>
> Even if not intended as an act of persecution, the prosecution/criminal conviction may be based on evidence obtained unlawfully, e.g. through illegal methods or means which constitute violations of basic human rights as well as principles and procedural guarantees (e.g. witness declarations provided under torture, falsified documents, deprivation of legal advice and of the possibility to provide evidence in defence, procedures carried out in secret, etc.). A risk of persecution may also arise in the broader context of the prosecution, e.g. if the person would be subject to torture or other forms of ill-treatment while in (pre-trial) detention."

43. IPAT's decision is open to the separate criticism that it does not apply the onus of proof properly. The onus or burden of establishing that the exclusion criteria are fulfilled lies with the competent authorities of the Receiving State. Here, IPAT seeks to attach much significance to the obligation upon an applicant to co-operate in the assessment of the facts and circumstances relevant to his application. The impugned decision purports to identify two failings on the part of the Applicant in this regard. First, it is said that the Applicant refused, until the day of the oral hearing, to disclose the names of various associates including that of an individual who denounced him to the Russian authorities. Secondly, it is said that the Applicant failed to furnish any documentary or other evidence to substantiate his claim that he was in [details of location redacted] at the time that the Russian authorities claim that he was in Syria.

44. With respect, neither of these supposed failings is of assistance to IPAT in discharging the onus upon it. Here, the Applicant provided the requested information at the oral hearing, that is, at a time when the assessment of his application was ongoing and prior to a decision being made by IPAT. The fact, if fact it be, that certain information may have been provided belatedly by the

Applicant does not shift the onus in any way. IPAT is not entitled to "*punish*" the Applicant for his tardiness, by relying on his supposed non co-operation to invoke the exclusion.

45. As to the supposed failure to substantiate his claim that he was in [details of location redacted], the most that is said is that this gave rise to a "*suspicion*" that he may have travelled to Syria. This falls well short of a "*serious reason*" for considering that he may have committed a serious non-political crime.

NON-REFOULEMENT

46. There is brief reference made in the Respondents' submissions to the principle of non-refoulement. This is the principle that a person shall not be expelled or returned to the frontier of a territory where their life or freedom would be threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion, or where there is a serious risk that the person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

47. If and insofar as it is being implied that the fact that the Applicant may be able to rely on this limited form of protection is in any sense an answer to his challenge to the refusal of international protection, same is not correct. As is the case for any asylum seeker, the Applicant is entitled to have his international protection application determined in accordance with law: he is not required to settle for "*second best*" simply because a lesser form of protection may be available under the principle of non-refoulement. See, by analogy, *E.S. v. International Protection Appeals Tribunal* [2022] IEHC 613 (at paragraphs 12 to 14) and the case law cited therein.

CONCLUSION AND PROPOSED FORM OF ORDER

48. For the reasons explained herein, IPAT erred in law in concluding that the Applicant was excluded from international protection under Section 10 of the International Protection Act 2015 by reason of his supposedly having committed a serious non-political crime. In particular, IPAT failed entirely to carry out the individualised assessment mandated in such cases. IPAT failed to identify adequately the nature of the crime or crimes which it is considered that the Applicant has committed. It is simply not possible for a competent authority to carry out the requisite case-by-case assessment without first identifying the nature of the crime. Without such identification, there can be no meaningful analysis of whether the crime is "*serious*" or "*non-political*", nor of whether the person bears individual responsibility for same.

49. The same legal error invalidates the finding that the Applicant is excluded from the benefit of subsidiary protection under Section 12 of the International Protection Act 2015. The legal principles are broadly similar to those governing refugee status, save that the qualifying term "*non-political*" does not apply. This distinction is of no practical significance in the present case where the failure to identify any specific crime meant that the question of political motivation simply never arose for consideration.

50. Accordingly, an order of *certiorari* will be made setting aside IPAT's decision and an order made, pursuant to Order 84, rule 27 of the Rules of the Superior Courts, remitting the matter to a differently constituted division of IPAT.

51. As to costs, my provisional view is that the Applicant, having been entirely successful in his application for judicial review, is entitled to recover his costs

against the Respondents in accordance with the default position under Section 169 of the Legal Services Regulation Act 2015. If the Respondents wish to contend for a different form of costs order, their solicitor should contact the registrar within the next fourteen days with a view to having the case listed before me on 19 June 2023.

Appearances

Colm O'Dwyer, SC and Céile Varley for the applicant instructed by KOD Lyons Solicitors
Katherine Mc Gillicuddy for the respondents instructed by the Chief State Solicitor

Approved